

Notice of Allowability

Application No.

09/497,006

Examiner

Paul H Kang

Applicant(s)

DEMPSKI, DAVID R.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment after final filed October 12, 2004.
2. ☒ The allowed claim(s) is/are 1,3,4 and 6-22.
3. ☒ The drawings filed on 16 June 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Allowable Subject Matter

The following is an examiner's statement of reasons for allowance:

Claims 1, 3-4 and 6-22 are allowed.

In interpreting the claims in light of the specification and applicants' arguments, the examiner finds the claims to be patentably distinct from the prior art of record.

The prior art of record teaches the invention substantially as claimed. Haitsuka teaches a system and method of monitoring individual Internet usage by way of downloading a client monitoring application which monitors user's activities and transmitted to a server (See Haitsuka, col. 2, lines 51-67 and col. 5, line 23 – col. 6, line 61 and col. 8, line 6 – col. 9, line 62).

Likewise, Davis teaches a system and method for tracking client interaction with a network resource and creating client profiles and resource databases. Davis teaches monitoring time, keyboard events, mouse events, etc. in order to track user behavior in order to generate a user preferences profile in order to customize data served to users (see Davis, Summary).

However, the prior art of record does not explicitly teach a system and method comprising acquiring the end user's consent to upload saved information by direct user input, e.g. prompting user to enter a user ID or password. The prior art, in order to limit unauthorized access to user computers, employs security features of Java (see Davis, col. 9, line 46 – col. 10, line 57). Devine et al., US Pat. App. No. US 2003/0191970 A1 cited here as pertinent but not relied upon, explains in more detail the Java security features alluded to in Davis. Devine teaches using applets to enable the user to verify a trusted source, thereby providing consent for a server to access information stored on the client (See Devine, page 8, paragraphs 0102-0105). Neither

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teachings, however, explicitly teach prompting the user for explicit authorization as required by claimed invention.

Applicants' arguments found in the Appeal Brief of September 13, 2004, pages 10-13, are found to be persuasive. The applicants argued in substance that the prior art failed to teach "acquiring the end user's consent to upload saved information; and uploading saved information upon selective operation by the end user..."

Applicants also argue that Shear, applied for the user consent element, does not teach the invention as claimed. It is agreed that Shear verifies data downloaded onto the client as being from a trusted source, and falls short of the claimed invention as to this element.

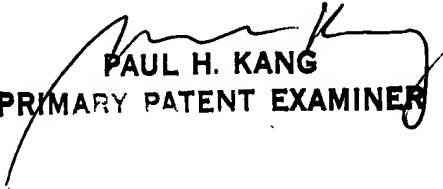
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul H Kang whose telephone number is (571) 272-3882. The examiner can normally be reached on 9 hour flex. First Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


PAUL H. KANG
PRIMARY PATENT EXAMINER